IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

MACA.No. 945 of 2004()

OPMV.16/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KALPETTA
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APPELLANT/PETITIONER

MUHAMMED ANAS, AGED 13 YEARS (MINOR)
S/O. HUSSAIN, NAIKUNDATHIL HOUSE, P.O.NAIKATTY,
S.BATHERY TALUK, WAYANAD DISTRICT, REPRESENTED BY
NEXT FRIEND AND FATHER OF THE MINOR HUSSAIN, AGED
39 YEARS, S/O. BABU, NAIKUNDATHIL HOUSE,
P.O.NAIKKATTY, SULTAN BATHERY TALUK, WAYANAD.

BY ADV. SRI.ESM.KABEER

RESPONDENTS: RESPONDENTS
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1. THE ADMINISTRATIVE OFFICER,
M/S. GRASSIM INDUSTRIES LTD., PULP DIVISION,
P.O.MAVOOR, CALICUT DISTRICT
(OWNER OF CAR KL-11/C-9381)
2. BABU S/O. YOHANNAN, AGED 45 YEARS,
PULLANPALLY HOUSE, RESIDING AT MAVOOR, CALICUT,
GWALLOUR RAYONS QUARTERS NO.23/20, P.O.MAVOOR,
CALICUT (DRIVER OF CAR KL-11/C-9381, D
D/L 816/80.
3. THE NEW INDIA ASSURANCE CO.LTD.,
BRANCH OFFICE, 189, MISSION STREET,
P.O.PONDICHERRY, (POLICY NO.3171100103237).
4. THE NEW INDIA ASSURANCE CO.LTD.,
KALPETTA BRANCH, P.O.KALPETTA, WAYANAD DISTRICT.

BY ADV. SRI.ANTONY DOMINIC
SRI.A.M.SHAFFIQUE
SMT.PRIYA KRISHNAMOORTHY
SRI.A.C.DEVY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING BEEN FINALLY HEARD ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S. RADHAKRISHNAN & M.N. KRISHNAN, JJ.

M.A.C.A. No 945 of 2004

Dated: 19 th December 2006

JUDGMENT

Krishnan, J.

This appeal is preferred against the award of the Claims Tribunal, Kalpetta in O.P.(M.V) No 16 of 1997. Injured was a minor aged 6 years at the time of accident. On account of the same he sustained fracture of the femur. He was in the hospital for a day and the doctor had issued disability certificate fixing the disability at 8%. Tribunal awarded total compensation of Rs 25,835/-. It is against that decision this appeal is preferred.

2. Heard both sides.

3. Learned counsel for the appellant would contend that since the Tribunal has accepted the permanent disability at 8% it was not right in limiting the disability compensation to Rs 12,000/-. This is a valid contention. Even if the notional income is taken as Rs 15,000/- and 15 is taken as the multiplier claimant would be entitled to get Rs 18,000/- as compensation for permanent disability, but only Rs

12,000/- had been granted. Therefore we grant an amount of Rs 6,000/- as additional compensation under that head. The boy aged 6 years sustained fracture of the femur and had undergone prolonged treatment and the Tribunal had awarded only Rs 5,000/- for pain and suffering. We feel this is a fit case where we should award an amount of Rs 7,500/- under that head. On account of the disability there is shortening of the leg. Boy at the age of 6 years is not able to play in the manner in which he wants and certainly it has affected his amenities and enjoyment in life. Therefore we feel that an amount of Rs 4,000/- would be reasonable compensation under that head. Therefore we grant an additional compensation of Rs 12,500/-. Appeal is partly allowed and the claimant is entitled to Rs 12,500/- with 6% interest on the said sum from the date of petition till realisation and the Insurance Company is directed to deposit the amount within two months from the date of receipt of a copy of this judgment.

SD/-
(K.S. RADHAKRISHNAN, JUDGE)
SD/-
(M.N. KRISHNAN, JUDGE)

19/12/2006en true copy